

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

MIGUEL PRIETO, AMELIA PRIETO,
AND JOSE PRIETO

VS.

COREY NIXON AND FLINT SPECIAL
SERVICES, INC.

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CIVIL ACTION NO. 1:16-CV-00206

JURY

INDEX OF DOCUMENTS FROM STATE COURT ACTION

The following is an index of the pleadings, answers to pleadings, process, and orders entered by the state court in Cause No. E-198419; *Miguel Prieto, Amelia Prieto and Jose Prieto v. Corey Nixon and Flint Special Services*:

NO.	NAME OF DOCUMENT	DATE FILED
1.	Civil Docket Sheet	06-06-16
2.	Plaintiff's Original Petition	05-03-16
3.	Issuance of Citation to Flint Special Services, Inc.	05-10-16
4.	Issuance of Citation to Corey Nixon	05-10-16
5.	Affidavit of Service to Flint Special Services, Inc.	05-23-16

Page 1 of 1





I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith

Certified Document Number: 1638228 Total Pages: 1

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CAUSE NO. _____

MIGUEL PRIETO, AMELIA PRIETO,
AND JOSE PRIETO,
Plaintiffs

v.

COREY NIXON AND FLINT SPECIAL
SERVICES, INC.,
Defendants

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IN THE DISTRICT COURT OF

JEFFERSON COUNTY, TEXAS

JUDICIAL DISTRICT

PLAINTIFF’S ORIGINAL PETITION

TO THIS HONORABLE COURT:

COMES NOW Miguel Prieto, Amelia Prieto, and Jose Prieto, Plaintiffs, complaining of Corey Nixon and Flint Special Services, Inc., Defendants, and would respectfully show:

1. Discovery Control Plan and Rule 47 Statement

1.1 Plaintiff requests that the Court conduct discovery in this matter under Level 2 of the Discovery Control Plan pursuant to Rule 190 of the Texas Rules of Civil Procedure.

1.2 Plaintiff’s Request for Disclosure, Request for Admissions, Interrogatories, and Request for Production propounded to Defendants are attached to Plaintiff’s Original Petition and are being served contemporaneously upon said defendants pursuant to Rules 194, 196, 197, and 198 of the Texas Rules of Civil Procedure.

1.3 For purposes of Rule 47 of the Texas Rules of Civil Procedure, Plaintiff would note that Plaintiff seeks monetary relief over \$1,000,000.00, but less than \$5,000,000.00.

2. Parties

2.1 Plaintiffs are residents of North Carolina.

2.2 In accordance with Section 30.015 of the Texas Civil Practice and Remedies Code, Plaintiffs disclose that Plaintiffs’ address is 312 Bingham St. Greensboro, NC 27401.

2.3 In accordance with Section 30.014 of the Texas Civil Practice and Remedies Code, Plaintiff discloses that the last three (3) numbers of Plaintiff Miguel Prieto's driver's license number are 158 and that the last three (3) numbers of Plaintiff's Social Security number are 439.

2.4 In accordance with Section 30.014 of the Texas Civil Practice and Remedies Code, Plaintiff discloses that the last three (3) numbers of Plaintiff Amelia Prieto's driver's license number are 363 and that the last three (3) numbers of Plaintiff's Social Security number are 442.

2.5 In accordance with Section 30.014 of the Texas Civil Practice and Remedies Code, Plaintiff discloses that the last three (3) numbers of Plaintiff Jose Prieto's Social Security number are 413.

2.6 Defendant Nixon is a resident of Hartselle, Alabama.

2.7 Defendant Nixon may be served with process at 220 N. Robinson Rd. Hartselle, Alabama 35640, or wherever said defendant may be found.

2.8 Defendant Flint Special Services, Inc. (hereinafter referred to as "Flint Special Services") is a Michigan for-profit corporation doing business in Texas as an interstate trucking company. Its principal place of business is in Warren, Michigan.

2.9 Defendant Flint Special Services, Inc. may be served with process via its registered agent, Rebecca Johnson, at 12755 East 9 Mile Road Warren, Michigan 48089 (telephone: unknown), or wherever said agent may be found.

3. Jurisdiction

3.1 Plaintiff's damages are within the jurisdictional limits of this Court.

3.2 Defendant Nixon is subject to the jurisdiction of this Court as his acts giving rise to the cause of action occurred in Jefferson County, Texas.

3.3 Defendant Flint Special Services, Inc. does business in Texas and is subject to the jurisdiction of this Court.

4. Venue

4.1 All acts and omissions giving rise to the cause of action occurred in Jefferson County, Texas.

4.2 Venue is therefore proper in Jefferson County, Texas pursuant to Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code.

5. Facts of Case

5.1 On or about September 19, 2014, in the 5000 block of I-10 near S. Major Dr., Jefferson County, Texas, a vehicle operated by Defendant Nixon and owned by Defendant Flint Special Services collided with a vehicle operated by Plaintiff.

5.2 At all times material to the events of this lawsuit Defendant Nixon controlled, utilized, maintained, and operated vehicles in conduct of Defendant Flint Special Services's business. Defendant Nixon was in the course and scope of his employment with Defendant Flint Special Services when he was involved in a collision with a vehicle being operated by Plaintiff. That collision and the injuries sustained by Plaintiff as a result of that collision provide the basis of this lawsuit.

5.3 Defendant Nixon's failure to use ordinary care in the operation of Defendants' vehicle was a proximate cause of this wreck and Plaintiff's resulting injury.

5.4 Defendant Flint Special Services's failure to use ordinary care and ensure Defendant Nixon was a safe and competent driver was also a proximate cause of this wreck and Plaintiff's resulting injury.

6. Causes of Action

6.1 Plaintiff bases Plaintiff's causes of action in part upon negligence or negligence per se as these terms are defined under the common law and statutes of Texas and the doctrine of respondeat superior is invoked where applicable.

6.2 Plaintiff would show that the conduct of Defendants, as set forth herein and otherwise, constituted negligence by act or omission, each and all of which was a proximate cause of the occurrence or injury in question and Plaintiff's damages resulting from the occurrence or injury in question.

6.3 Defendant Flint Special Services is vicariously liable for the actions of Defendant Nixon and for Plaintiff's injuries and damages under the legal theory of respondeat superior as that term is defined and understood pursuant to Texas law.

6.4 All conditions precedent to the filing of this lawsuit and bringing said causes of action have been performed or have occurred.

7. Damages

7.1 Plaintiffs have suffered damages in the past as well as in the future.

7.2 These damages, past and future, include those damages resulting to Plaintiffs, conditioned as Plaintiffs were at the time of the occurrence in question, or which resulted from the activation of any condition which may have existed at the time of the occurrence in question.

7.3 These damages, past and future, include physical pain, mental anguish, loss of earnings or earning capacity, disfigurement, physical and mental impairment, and reasonable expenses for necessary health care, including rehabilitative services and devices, resulting from the injuries sustained in the occurrence in question.

7.4 These damages include any subsequent aggravation of the injuries sustained in the occurrence in question.

8. Prayer for Relief

8.1 WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray for judgment against Defendants for all damages to which Plaintiffs are entitled by law, prejudgment as well as postjudgment interest, costs of court, and such other and further relief, general and special, legal and equitable, to which Plaintiffs are justly entitled.

9. Rule 193.7 Notice to Defendants

9.1 TO DEFENDANTS: Plaintiffs hereby notify you, pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, that Plaintiffs currently intend to use all items produced by you in this litigation at any pretrial proceeding or trial.

10. Rule 609(f) Request to Defendants

10.1 TO DEFENDANTS: Pursuant to Rule 609(f) of the Texas Rules of Evidence, Plaintiffs hereby request, in regard to any witnesses that shall be named by any party as a person with knowledge of relevant facts, or as a testifying expert, that you give Plaintiffs sufficient advance written notice of your intent to use evidence of a conviction of any such witness.

Respectfully submitted,
Daniel Stark P.C.

BY: 

G. Jerrell Wise
SBN: 24075896
jwise@danielstarklaw.com
Daniel Stark, P.C.
Post Office Box 1153
Bryan, TX 77806
Telephone: (979) 846-8686
Facsimile: (979) 764-8002

ATTORNEY FOR PLAINTIFF



CITATION

THE STATE OF TEXAS

No. E-0198419

MIGUEL PRIETO ET AL
VS. COREY NIXON ET AL

CITATION

172nd JUDICIAL DISTRICT COURT
of JEFFERSON COUNTY, TEXAS

To: **FLINT SPECIAL SERVICES INC**
BY SERVING ITS REGISTERED AGENT
REBECCA JOHNSON

by serving at:
12755 EAST 9 MILE ROAD

WARREN, MI 48089**DEFENDANT:****NOTICE:**

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Said answer may be filed by mailing same to: District Clerk's Office, 1001 Pearl St., 2nd floor, Beaumont, TX 77701, (or if the case is designated as an E-file case, E-file through Lexis Nexis file and serve) or by bringing it to the office. The case is presently pending before the 172nd District Court of Jefferson County sitting in Beaumont, Texas, and was filed on the 3rd day of May, 2016. It bears cause number E-0198419 and is styled:

Plaintiff:

MIGUEL PRIETO ET AL
 VS.
COREY NIXON ET AL

Defendant:

The name and address of the attorney for plaintiff (or plaintiff if pro se) is:

WISE, JERRELL, Atty.
P.O. Box 1153
Bryan, TX 77806 0

The nature of the demands of said plaintiff is shown by a true and correct copy of Plaintiff's PETITION (PLAINTIFF'S ORIGINAL) ALSO ATTACHED LETTER DESIGNATING ALL CASES EFILE accompanying this citation and made a part thereof.

Issued under my hand and the seal of said court, at Beaumont, Texas, this the 10th day of May, 2016.

JAMIE SMITH, DISTRICT CLERK
 JEFFERSON COUNTY, TEXAS

Regan

RETURN OF SERVICE

E-0198419

172nd JUDICIAL DISTRICT COURT

MIGUEL PRIETO ET AL

COREY NIXON ET AL

Executed when copy was delivered:

This is a true copy of the original citation, was delivered to defendant _____, on the ____ day of _____, 20____.

_____, Officer

_____, County, Texas

By: _____, Deputy

ADDRESS FOR SERVICE:

FLINT SPECIAL SERVICES INC

BY SERVING ITS REGISTERED AGENT

WARREN, MI 48089 0000

OFFICER'S RETURN

Came to hand on the ____ day of _____, 20____, at _____, o'clock ____m., and executed in _____, County, Texas by delivering to each of the within named defendants in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the Citation at the following times and places, to-wit:

Name**Date/Time****Place, Course and Distance from Courthouse**

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being:

and the cause or failure to execute this process is:

and the information received as to the whereabouts of said defendant(s) being:

FEES:

Serving Petition and Copy \$ _____

Total \$ _____

_____, Officer

_____, County, Texas

By: _____, Deputy

Affiant**COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.**

In accordance with Rule 107: The officer of authorized person who serves, or attempts to serve, a citation shall sign and return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

"My name is _____, my date of birth is _____, and my address is _____
(First, Middle, Last)

(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.

Executed in _____, County, State of _____, on the ____ day of _____.

Declarant/Authorized Process Server_____
(Id # expiration of certification)



CITATION

THE STATE OF TEXAS

No. E-0198419**MIGUEL PRIETO ET AL
VS. COREY NIXON ET AL**

CITATION

**172nd JUDICIAL DISTRICT COURT
of JEFFERSON COUNTY, TEXAS**

To: NIXON, COREY**by serving at:
220 N ROBINSON ROAD****HARTSELLE, AL 35640****DEFENDANT:**

NOTICE:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Said answer may be filed by mailing same to: District Clerk's Office, 1001 Pearl St., 2nd floor, Beaumont, TX 77701, (or if the case is designated as an E-file case, E-file through Lexis Nexis file and serve) or by bringing it to the office. The case is presently pending before the 172nd District Court of Jefferson County sitting in Beaumont, Texas, and was filed on the 3rd day of May, 2016. It bears cause number E-0198419 and is styled:

Plaintiff:

**MIGUEL PRIETO ET AL
VS.
COREY NIXON ET AL**

Defendant:

The name and address of the attorney for plaintiff (or plaintiff if pro se) is:

**WISE, JERRELL, Atty.
P.O. Box 1153
Bryan, TX 77806 0**

The nature of the demands of said plaintiff is shown by a true and correct copy of Plaintiff's PETITION (PLAINTIFF'S ORIGINAL) ALSO ATTACHED LETTER DESIGNATING ALL CASES EFILE accompanying this citation and made a part thereof.

Issued under my hand and the seal of said court, at Beaumont, Texas, this the 10th day of May, 2016.

**JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS**

Regan

RETURN OF SERVICE

E-0198419

172nd JUDICIAL DISTRICT COURT

MIGUEL PRIETO ET AL

COREY NIXON ET AL

Executed when copy was delivered:

This is a true copy of the original citation, was delivered to defendant _____, on the ____ day of _____, 20____.

_____, Officer

_____, County, Texas

By: _____, Deputy

ADDRESS FOR SERVICE:

NIXON, COREY

HARTSELLE, AL 35640 0000

OFFICER'S RETURN

Came to hand on the ____ day of _____, 20____, at _____, o'clock ____m., and executed in _____, County, Texas by delivering to each of the within named defendants in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the Citation at the following times and places, to-wit:

Name**Date/Time****Place, Course and Distance from Courthouse**

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being:

and the cause or failure to execute this process is:

and the information received as to the whereabouts of said defendant(s) being:

FEES:

Serving Petition and Copy \$ _____

Total \$ _____

_____, Officer

_____, County, Texas

By: _____, Deputy

Affiant**COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.**

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"My name is _____, my date of birth is _____, and my address is _____
(First, Middle, Last)

(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.

Executed in _____, County, State of _____, on the ____ day of _____.

Declarant/Authorized Process Server_____
(Id # expiration of certification)

RECEIVED 05/21/2016 08:41
 DISTRICT CLERK OF
 JEFFERSON CO TEXAS
 5/23/2016 9:30:45 AM
 JAMIE SMITH
 DISTRICT CLERK
 E-198419

172nd District Court of JEFFERSON County, Texas
 1001 PEARL STREET BEAUMONT TX 77701

CASE #: E-0198419

MIGUEL PRIETO, AMELIA PRIETO, AND JOSE PRIETO

Plaintiff

vs

COREY NIXON AND FLINT SPECIAL SERVICES, INC.

Defendant

AFFIDAVIT OF SERVICE

I, DANIEL PETERS, make statement to the fact;
 That I am a competent person more than 18 years of age or older and not a party to
 this action, nor interested in outcome of the suit. That I received the documents
 stated below on May 16 2016, Time: 9:00 A M instructing for same to
 be delivered upon Flint Special Services, Inc. By Delivering To Its Registered Agent
 Rebecca Johnson.

That I delivered to : Flint Special Services, Inc. By Delivering To Its Registered Agent
 : Rebecca Johnson

the following : CITATION; PLAINTIFF'S ORIGINAL PETITION

at this address : 12755 E 9 Mile Rd
 : Warren, Macomb County, MI 48089

Manner of Delivery : by PERSONALLY delivering the document(s) to the person above.
 : By Delivering to Rebecca Johnson, Registered Agent

Delivered on : May 17, 2016 1:55 pm

I SOLEMNLY AFFIRM under the penalties of perjury that the contents of the foregoing
 paper are true and correct.
 EXECUTED BY:

Daniel Peters
 DANIEL PETERS

61654

Certification#: N/A

On this day DANIEL PETERS appeared before me, a notary public, and being duly sworn
 by me stated that he/she has personal knowledge of the facts set forth in the
 foregoing affidavit and declared that the facts contained therein are true and
 correct. Given my hand and seal of office this 20 day of MAY 2016.

PCP Inv#: A16502047

Private Process Server
 Professional Civil Process Of Texas, Inc
 103 Vista View Trail Spicewood TX 78669
 (512) 477-3500

+ Service Fee: 125.00
 Witness Fee: .00
 Mileage Fee: .00

Lynn M. Rodgers
 NOTARY PUBLIC
 LYNN M. RODGERS
 Notary Public, State of Michigan
 County of Macomb
 My Commission Expires Jan. 01, 2019
 Acting in the County of Macomb

Wise, George Jerrell

E-FILE RETURN



AX02A16502047

CITATION

THE STATE OF TEXAS

No. E-0198419

**MIGUEL PRIETO ET AL
VS. COREY NIXON ET AL**

CITATION

**172nd JUDICIAL DISTRICT COURT
of JEFFERSON COUNTY, TEXAS**

**To: FLINT SPECIAL SERVICES INC
BY SERVING ITS REGISTERED AGENT
REBECCA JOHNSON**

by serving at:
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WARREN, MI 48089

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Plaintiff:

Defendant:

The name and address of the attorney for plaintiff (or plaintiff if pro se) is:

**WISE, JERRELL, Atty.
P.O. Box 1153
Bryan, TX 77806 0**

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**JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS**

Regan

Regan Corbells

RETURN OF SERVICE

E-0198419

172nd JUDICIAL DISTRICT COURT

MIGUEL PRIETO ET AL

COREY NIXON ET AL

Executed when copy was delivered:

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_____, Officer

_____, County, Texas

By: _____, Deputy

ADDRESS FOR SERVICE:

FLINT SPECIAL SERVICES INC

BY SERVING ITS REGISTERED AGENT

WARREN, MI 48089 0000

OFFICER'S RETURN

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The diligence used in finding said defendant(s) being: _____

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and the information received as to the whereabouts of said defendant(s) being: _____

FEES:

Serving Petition and Copy \$ _____

Total \$ _____

_____, Officer

_____, County, Texas

By: _____, Deputy

Affiant _____

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

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(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.

Executed in _____, County, State of _____, on the _____ day of _____.

Declarant/Authorized Process Server

(Id # expiration of certification)